

## REMARKS

### INTRODUCTION

In accordance with the foregoing, no claims have been canceled, amended, or added. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-21 are pending and under consideration. Reconsideration is respectfully requested.

### REQUEST FOR INTERVIEW BEFORE OFFICE ACTION

Applicants respectfully request the Examiner contact the undersigned attorney to discuss the pending claims before issuance of an Office Action.

Applicants believe that a more thorough review of the underlying references and the pending claims will be helpful to further prosecution.

### REJECTION UNDER 35 U.S.C. §101

At page 2 of the Office Action, claims 9-11 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. At least for the reasons herein, the rejection is traversed and reconsideration is respectfully requested.

Initially, the Applicants respectfully note that the Office Action responds only to the Applicants second argument. That is, the Office Action is mute as to the following argument contained in the August 31, 2006 Amendment:

The Examiner has not asserted that claims 9-11 recite laws of nature, natural phenomena, or abstract ideas. Accordingly, claims 9-11 fall squarely within the statutory categories of patent-eligible subject matter set forth in 35 U.S.C. §101. No judicial exceptions apply. Accordingly, the Applicants respectfully submit that the rejection under 35 U.S.C. §101 is clearly improper.

Patent protection extends to "any new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. §101. However, the Supreme Court of the United States has recognized three exceptions to patent eligibility. Those exceptions are "laws of nature, natural phenomena, and abstract ideas." *Diamond v. Diehr*, 450 U.S. 175, 185 (1981). If the claims include such excepted subject matter, then the question of patentability turns on whether the claim is for a practical application of the abstract idea, law of nature, or natural phenomenon. *Manual of Patent Examination Procedure ("MPEP")* § 2106 (8th Ed. 2001) (Rev. 5, August 2006)

(citing *Diamond v. Diehr*, 450 U.S. 175, 187, 209 USPQ 1, 8 (1981); *Gottschalk v. Benson*, 409 U.S. 63, 71, 175 USPQ 673, 676 (1972)).

The Examiner has not asserted that claims 9-11 are directed to laws of nature, natural phenomena, or abstract ideas. Accordingly, the Examiner's contention that a practical application need be shown is clearly without legal support. Withdrawal of the 101 rejection is respectfully requested.

#### REJECTION UNDER 35 U.S.C. §102

At page 3 of the Office Action, claims 1-4, 9-10, 12-15, and 17-21 were rejected under 35 U.S.C. §102(a) in view of "Installing the Intel Pro/Wireless 2011 LAN PC Card in Windows 2000 Professional" *WinBook Tech Article* – article no.: WBTA09000774 ("IntelWBTA"). At least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

Claim 1 recites, inter alia:

copying and storing the device driver file.

Claim 9 recites, inter alia:

a first driver installation unit installing in the apparatus the device driver using a device driver file input from the outside while storing a device driver file; and

a second driver installation unit, which re-installs the device driver using the stored device driver file input from the first driver installation when re-installation of the device driver is requested.

Claim 12 recites, inter alia:

copying and storing in the computer the device driver file.

Claim 21 recites, inter alia:

copying and storing the device driver file from among the input files.

The Examiner contends that "[I]t is very hard to disassociate the process of installing and that of copying in terms of two unrelated actions that would not depend on one another." *Office Action*, page 12, lines 13-14. By way of review, the Applicants respectfully note paragraph [0016] of the specification, which states:

At operation 36, the device driver file, which is provided from the outside and installed at operation 34, is also copied and stored in the computer, for example, in a hard disk drive (HDD) of the computer.

(emphasis added). Claim 1, for example recites both the operation of installing in a computer a device driver using a device driver file provided from outside, and copying and storing the device driver file.

IntelWBTA, at most, relates to an installing operation. The Examiner's proposed interpretation of the copying feature not only conflates the copying feature and the installing feature, but is also clearly inconsistent with the specification. Thus, IntelWBTA cannot be properly relied upon for teaching or suggesting copying and storing the device driver file (independent claims 1 and 12), a first device driver installation unit installing the apparatus the device driver using a device driver file input from the outside while storing a device driver file (independent claim 9), or copying and storing the device driver file from among the input files (independent claim 21).

The Applicants respectfully submit that since IntelWBTA fails to teach or suggest all of the features of claims 1, 9, 12 and 21, these claims are allowable over IntelWBTA. Thus, withdrawal of the 102 rejection is respectfully requested.

Regarding the rejection of claims 2-4, 10, 13-15 and 17-20, these claims depend directly or indirectly on one of independent claims 1, 9 or 12, and are therefore believed to be allowable for at least the reasons noted above.

#### REJECTION UNDER 35 U.S.C. §103

At page 7 of the Office Action, claims 5-8, 11, and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over IntelWBTA in view of U.S. Patent Appl. Pub. No. 2002/0042911 by Harms. For at least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

Claims 5-8, 11 and 16 depend, directly or indirectly, from one of independent claims 1, 9 or 12. The rejection relies on the above rejection of independent claims 1, 9 and 12. However, as discussed above, the proposed combination of references fails to teach or suggest all of the features of the independent claims. The Applicants respectfully submit that Harms fails to make up for this deficiency.

The Applicants respectfully submit that at least because neither IntelWBTA nor Harms, individually or combined, teach or suggest all of the features of claims 5-8, 11 and 16, the proposed combination of IntelWBTA and Harms fails to establish a prima facie case of obviousness. Accordingly, claims 5-8, 11 and 16 are deemed to be allowable over the art of record. Therefore, withdrawal of the §103 rejection is respectfully requested.

## CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: Feb. 8, 2007

By: 

David J. Cutitta  
Registration No. 52,790

1201 New York Ave, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501